

**CALENDAR ITEM
C37**

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04/20/17
PRC 3715.1
J. Holt

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Terence Robert Bunton and Pauline Elizabeth Bunton, Trustees of the Terence and Pauline Bunton Revocable Trust dated September 11, 2001.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Petaluma River, adjacent to 45 Bridge Road, near Novato, Marin County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and float.

LEASE TERM:

10 years, beginning March 12, 2016.

CONSIDERATION:

\$364 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On June 26, 2006, the Commission authorized a Recreational Pier Lease to Terence Robert Bunton and Pauline Elizabeth Bunton, Trustees of the Terence and Pauline Bunton Revocable Trust dated September 11, 2001 ([Calendar Item C15, June 26, 2006](#)). That lease expired on March 11, 2016. The Applicant is now applying for a new General Lease – Recreational Use.

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The proposed lease area contains the same facilities as the prior lease, which consists of an existing pier and float, used for fishing in the Petaluma River. Recreational fishing is a water-dependent activity consistent with the common law Public Trust Doctrine. The California Legislature has identified recreational piers as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

The subject structures do not significantly alter the land; the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the existing pier and float will not substantially interfere with Public Trust needs, at this location at this time, and for the foreseeable term of the proposed lease.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years, and a non-exclusive use provision. The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

Climate Change:

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased wave activity, storm events, and flooding. The existing structures within the proposed lease area are located along the Petaluma River within a tidally-influenced region. The subject facilities are vulnerable to flooding at current sea levels and at higher risk of flood exposure given future projected scenarios of sea-level rise. The lease area contains a fixed recreational uncovered pier and a fishing float.

By 2030, California's coast could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly over 5 feet by 2100 (National Research Council 2012). This effect could increase the Petaluma River's inundation levels within the lease area. In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity

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of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise).

The combination of these projected conditions could potentially raise the likelihood of damage to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause structures to be damaged or dislodged, presenting hazards to public safety, as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels, exposing previously submerged structures to the elements potentially leading to increased wear and tear on the pilings and impact the functionality and utility of the lease area's structures.

The floating structures like the fishing float are adaptable to variable water levels, allowing them to rise and fall with storms and droughts, increasing resiliency to some climate change impacts, but may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement. The fixed features may need reinforcement to withstand higher levels of flood exposure because they would not be able to rise and fall with storms and droughts. The salt marsh habitat surrounding the existing pier currently provides some natural bank stabilization. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. The lease includes an acknowledgment that the lease premises may be subject to the effects of sea-level rise and may require additional maintenance or protection as a result, for which the lessee agrees to be solely responsible.

Conclusion:

For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.

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2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

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AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant, beginning March 12, 2016, for a term of 10 years, for the continued use and maintenance of an existing pier and float, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$364 per year; with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3715.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Petaluma River, lying adjacent to Rancho De Novato, patented April 10, 1866, Marin County, State of California and more particularly described as follows:

All those lands underlying an existing pier and float lying adjacent to that parcel as described in Grant Deed, recorded September 21, 2001 in Document Number 2001-0061652 in Official Records of said County.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right bank of said river.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 01/23/2017 by the California State Lands Commission Boundary Unit



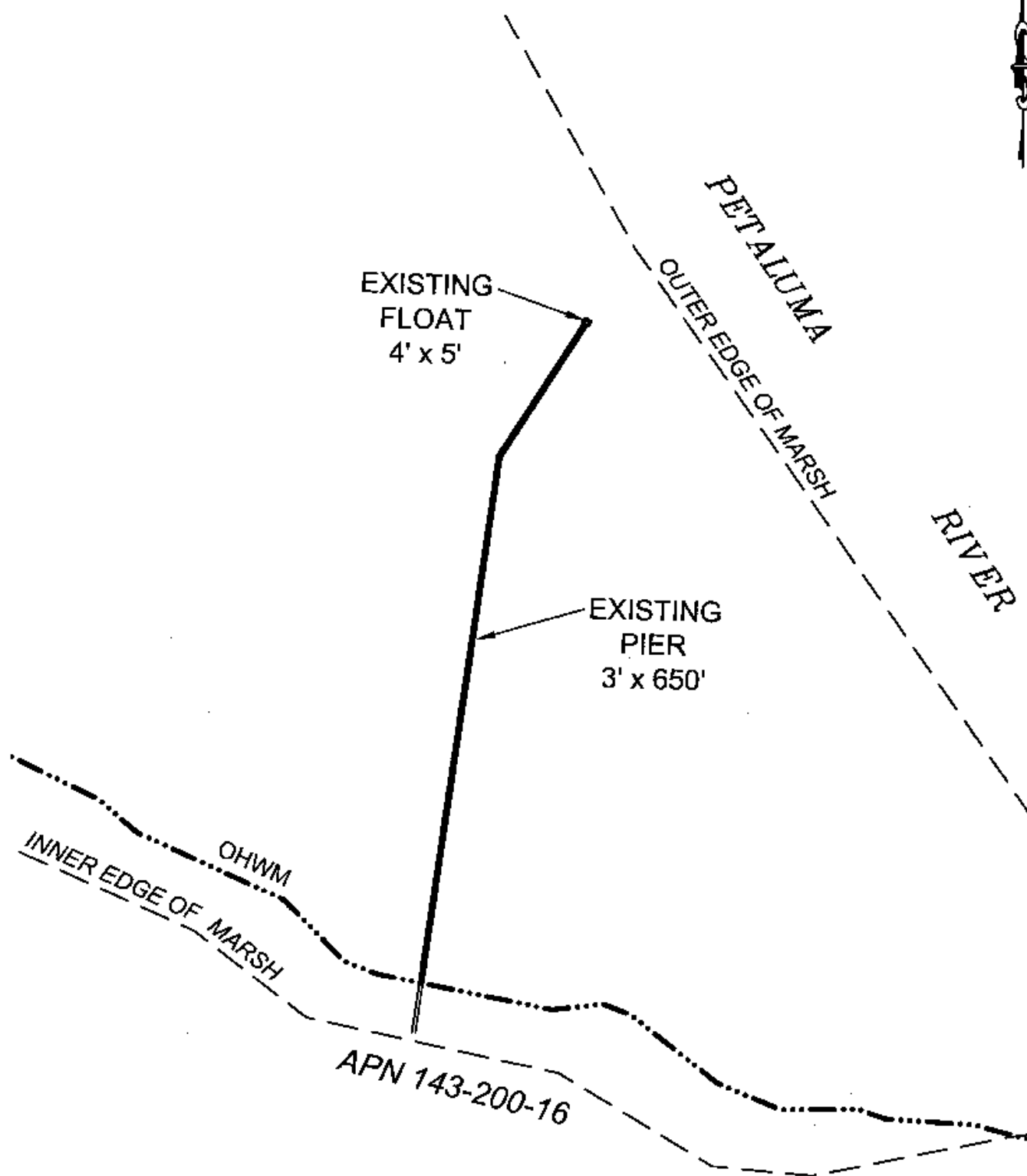


EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 3715.1, BUNTON, TRUSTEES
MARIN COUNTY

CALIFORNIA STATE
LANDS COMMISSION



SITE



OUTER EDGE OF MARSH

PETALUMA

RIVER

EXISTING
PIER
3' x 650'

..... OHWM
INNER EDGE OF MARSH

ОЧУМ

APN 143-200-16

45 BRIDGE ROAD, NEAR NOVATO

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3715.1

BUNTON, TRUSTEES

APN 143-200-16

GENERAL LEASE-
RECREATIONAL USE
MARIN COUNTY



SITE

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This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.